

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

Civil Action No. 3:22-cv-0191

KANAUTICA ZAYRE-BROWN,)
)
Plaintiff,)
)
v.)
)
THE NORTH CAROLINA)
DEPARTMENT OF PUBLIC)
SAFETY, et al.,)
)
Defendants.)
)

DEPOSITION OF GARY JUNKER, PH.D.

(Taken by plaintiff.)

Raleigh, North Carolina

May 4, 2023, 9:06 a.m.

Reported By:
SUSAN GALLAGHER, CA CSR, CVR-CM

1 cited.

2 A That's right.

3 Q Okay. So you talked about -- in determining or
4 in concurring with the medical-necessity determination,
5 you talked about risks and benefits. Are there any
6 other risks that you considered that would apply
7 specifically to Ms. Zayre-Brown that lead you to concur
8 with the DTARC's determination that surgery was not
9 medically necessary for her to treat her gender
10 dysphoria?

11 A I relied upon the summary document of the
12 DTARC.

13 Q You also mentioned the fact that other
14 procedures or other treatments were available that led
15 you to concur with the DTARC's assessment that surgery
16 was not medically necessary. What other treatments or
17 procedures are available to treat Ms. Zayre-Brown's
18 gender dysphoria that she has not already explored?

19 A Well, there is indication that what has been
20 provided has had some benefit. I believe it may have
21 been Dr. Figler's document that said that there was
22 marked improvement regarding her response to hormone
23 treatment. I'm not exactly sure, you know -- and
24 again, in the context of what that marked improvement
25 was referencing.

1 But the supportive counseling that's provided,
2 the hormone treatment that's provided, her living in a
3 female facility to be able to interact with other
4 females. I mean, there's a supportive environment
5 there within the female milieu. So a number of
6 protective factors that, you know, are currently being
7 addressed for her that I think are certainly a
8 positive.

9 Q Understood. But even following receiving that
10 care, is it your understanding that Ms. Zayre-Brown is
11 still experiencing clinically significant distress
12 associated with gender dysphoria?

13 MR. RODRIGUEZ: Objection. Speculation.

14 You can answer.

15 THE WITNESS: I don't know. I think a thorough
16 psychological assessment and some objective instruments
17 to determine levels of certain types of symptoms, you
18 know, would probably help to determine that. I don't
19 recall, -- you know, again, her 2017, that was related
20 prior to putting a lot of things in place that we now
21 have in place for individuals, but I think, you know,
22 medication and her current circumstances -- and the
23 summary from the DTARC is that she was psychologically
24 stable and, you know, her mental status was -- it
25 seemed to level off.

1 So I don't know, but it had no impact on her saying
2 she's an 11 out of 10. That's really -- that's really
3 difficult to say.

4 BY MS. MAFFETORE:

5 Q Do you dispute that Ms. Zayre-Brown is still
6 suffering from gender dysphoria?

7 MR. RODRIGUEZ: Objection. Speculation.

8 You can answer.

9 THE WITNESS: I have no way to really fully and
10 adequately determine that.

11 BY MS. MAFFETORE:

12 Q At the time of your consideration, did you
13 dispute that Ms. Zayre-Brown was still suffering from
14 gender dysphoria at that time, when she was being
15 considered for gender-affirming surgery?

16 A She was still -- from what -- again, that's
17 difficult to say in total, but it did you know say
18 that, you know, her mental status was stable, and in
19 another note it said that she was content, and so I
20 would imagine, yes, she still is likely suffering from
21 some level of gender dysphoria. Does it rise to the
22 level of significant persistent distress? I, you know,
23 would need to have someone conduct some further
24 evaluation of her to know exactly.

25 Q Sure. So you noted several times that one

1 reason that you supported the conclusion that surgery
2 is not medically necessary to treat Ms. Zayre-Brown's
3 gender dysphoria is because she is stable. Didn't you
4 testify earlier in this deposition that whether
5 somebody -- somebody's mental health condition is
6 stable is a criteria that would make them a good
7 candidate for gender-affirming surgery?

8 A That's the difference between appropriate and
9 medically necessary.

10 Q So why would it make Ms. Zayre-Brown -- why
11 would it make surgery not medically necessary for Ms.
12 Zayre-Brown if she is mentally stable if being mentally
13 stable is a prerequisite to being a candidate for
14 gender-affirming surgery?

15 A That's the dilemma that we face.

16 Q Okay?

17 A If you pathologize a condition then it becomes
18 a difficult to make it a prerequisite, and it's
19 difficult to not be able to disqualify yourself or make
20 yourself appropriate for treatment if you're well, you
21 know, I mean, if your dysphoria resolves and treatment
22 is successful. That's the exact dilemma that I think
23 we face here.

24 Q Isn't it the case that we reviewed her record
25 previously where Ms. Zayre-Brown indicates she was

1 still having self-injurious thoughts, but was
2 discouraged from having those self-injurious or acting
3 on them because doing so would make her unstable in a
4 fashion that would jeopardize her ability to obtain
5 surgery?

6 A I hear you.

7 Q Are you aware of whether or not the DTARC
8 employed the WPATH criteria in determining whether or
9 not Ms. Zayre-Brown should receive gender-affirming
10 surgery?

11 MR. RODRIGUEZ: Object to --

12 BY MS. MAFFETORE:

13 Q Are you aware of whether or not the DTARC
14 employed the WPATH criteria in order to assess Ms.
15 Zayre-Brown's request for gender-affirming surgery?

16 A I know that Dr. Peiper is very familiar with
17 the DTARC criteria, and so I trust his input into this
18 process as well. Again, he's very familiar with the
19 WPATH criteria, and I would assume that that was
20 weighed in the committee's conclusion.

21 Q Did you independently reference the WPATH
22 criteria in considering whether or not Ms. Zayre-Brown
23 should receive gender-affirming surgery?

24 A I did not, but I'm aware of, you know,
25 certainly the general content of that criteria and,